

AUG 30 2000

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Democratic National Committee/ )

DNC Services Corporation and )

Andrew Tobias, as treasurer )

Hollywood Women's Political Committee and )

Judith Dornstein, as treasurer )

MURs 4936 and 5038<sup>1</sup>

**SENSITIVE**

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT  
2000 AUG 30 PM 4:34

GENERAL COUNSEL'S REPORT #2

I. **ACTIONS RECOMMENDED:** Enter into conciliation with the Democratic National Committee/DNC Services Corporation and Andrew Tobias, as treasurer, prior to a finding of

probable cause to believe and approve the attached proposed conciliation agreement and appropriate letter. While currently awaiting the committee's response, this Office makes no recommendation pertaining to the HWPC at this time and will continue to report any further information to the Commission as it becomes available.

II. **BACKGROUND**

On October 5, 1999, the Commission found reason to believe the Democratic National Committee/DNC Services Corporation and Andrew Tobias, as treasurer, violated 2 U.S.C. §§ 441a(f), 441b(a) and 434(b)(2)(D), provisions of the Federal Election Campaign Act of 1971, as amended, (the "Act"), by accepting excessive contributions and by making repayments to a federal committee from its non-federal account; and by failing to report the advances as a contribution from another political committee. The Commission also found reason to believe the Hollywood Women's Political Committee and Judith Dornstein, as treasurer,

<sup>1</sup> This matter was originally RAD Referral 97L-24B, the companion RAD referral to 97L-24A, which became MUR 4936. While these two matters were not officially "merged," they were treated together as one case under MUR 4936. MUR 5038 was generated by Enforcement to clear up the confusion caused by the split cases (97L-24A and 97L-24B) and now represents RAD referral 97L-24B. This report refers to both MURs collectively.

violated 2 U.S.C. §§ 441a(a)(2)(B), 441b, 434(b)(4)(H)(ii) and 11 C.F.R. § 102.5(a)(2) by making an impermissible contribution to the DNC through the advancement of funds; for depositing into a federal account funds which did not meet the limitations and prohibitions of the Act; and for failing to report the advances as a contribution to another political committee.

### III. ANALYSIS

After reviewing the Factual and Legal Analyses, counsel for Respondents DNC and Andrew Tobias, as treasurer, met with staff of this Office to discuss the possibility of pursuing pre-probable cause conciliation. Counsel stated that HWPC had one hundred percent control of the talent for the fund-raiser, which included the Eagles and Barbara Streisand, and that HWPC had a relationship with the vendors as well. Counsel averred that the DNC felt that it was in a "Catch 22" position regarding the fund-raiser: it could either give HWPC one hundred percent control of the event, or not have the fund-raiser at all. Counsel does not deny that violations of the Act occurred, including acknowledgment that an advance was made from the HWPC to the DNC which exceeded \$15,000 and that the advance was not properly reported as an in-kind contribution. The DNC further acknowledges that for the first portion of the series of transactions, payment to the HWPC to reimburse it for goods and services it bought for the DNC ran as much as thirty to forty-five days beyond the date of the actual purchases. The DNC also admitted that the advances should have been reported as a contribution from the HWPC.

Along with his presentation, counsel attached a chart in response to this Office's chart included in the First General Counsel's Report dated September 29, 1999. Attachment 1. According to counsel's chart, the DNC's violation consists of money advanced from the HWPC for one day totaling \$23,373.37. The difference between the results of the chart prepared by this Office and that prepared by opposing counsel can be explained by the two different approaches to

computing the same cumulative set of advances. Essentially, this Office's approach in the First General Counsel's Report was that once the HWPC made \$15,000 (the amount the DNC could have accepted without violating the Act) in advances to the DNC, there could be no more. As a result, the cumulative total of all further advances automatically amounted to excessive contributions. The DNC has argued that once the excessive contributions had been reimbursed to the HWPC, HWPC's \$15,000 contribution limit for the election was restored. Thereafter, the HWPC could make future advances to the DNC as long as the federal share did not exceed \$15,000. *Cf.* 11 C.F.R. §100.7(a)(1)(i). Counsel has shown that payments were made during this period that brought the HWPC below its \$15,000 contribution limit.

Taking this into account, the total advances made by the HWPC on behalf of the DNC from June 25, 1996 through September 6, 1996 were \$95,954. The DNC's chart, however, lists this total as \$76,764.74. This discrepancy occurs because on the same date that the DNC issued a check to the HWPC (September 6, 1996), the HWPC made three additional payments on behalf of the DNC totaling \$17,707.26. Since the HWPC did not receive the DNC's check until September 9, their \$15,000 limit had not yet been reinstated. The federal share of the total advances equals \$47,977 (due to the 50% federal and non-federal split), and after subtracting the permissible \$15,000 contribution, this Office believes the correct total of the excessive contribution to be \$32,977.

In the First General Counsel's Report dated May 19, 2000, this Office raised the issue of whether the reimbursements to the HWPC contained solely federal funds, or a mix of federal and non-federal funds. This issue arose because examination of the DNC's reports revealed a transfer from the DNC's non-federal account to its federal account (labeled as being for "Victory '96") prior to its first repayment to the HWPC. Counsel for Respondents clarified that the DNC

had several events entitled "Victory '96" and that all transfers from its non-federal account to its federal account were for non-federal shared expenses of other "Victory '96" fund-raisers; they did not go to the HWPC. In light of the above, this Office does not recommend pursuing this issue any further.

HWPC did not respond to the Factual and Legal Analyses. After undergoing several efforts to locate the treasurer of the HWPC, this Office ultimately discovered that the committee never received the reason to believe notification mailed by this Office in October 1999.

Although the committee treasurer, Judith Dornstein, stated this was due to an out of date address on file for the committee, Ms. Dornstein herself filed disclosure reports as late as September 1999 using the same address. Not only did the HWPC neglect to file a revised statement of organization with the Commission within ten days of an address change as required by 2 U.S.C. § 433(c), but they still have not filed a revised statement.

The HWPC has neither filed required periodic disclosure reports, as required under 2 U.S.C. § 434, nor has it responded to any requests from RAD. For example, the HWPC has failed to file its 1999 Year End Report and its 2000 April and July Quarterly Reports. The committee has received numerous failure to file notices from RAD, including ones dated May 10, 2000 (for the April 2000 Quarterly) and February 24, 2000 (for the 1999 Year-End). The committee has not filed recent disclosure reports even though the Commission has stated that they may not terminate. The last report filed by the HWPC was the 1999 Mid-Year Report containing all zeros and a request to terminate, which was denied. The last report filed by HWPC which indicated any activity was the 1998 July Quarterly.

Accordingly, this Office recommends that the Commission find reason to believe that the Hollywood Women's Political Committee and Judith Dornstein as treasurer, violated

2 U.S.C. §§ 433(c) and 434. These findings would be in addition to the previous findings of reason to believe that the HWPC violated the Act by making excessive contributions to the DNC.

Media accounts state that the HWPC is "disbanding," depict the HWPC as having "announced its disbandment" and describe the committee as having "folded its Armani tent on April 12 [1997]." See Elizabeth Johns, *Hollywood Women Quit Political Fundraising* (dated April 14, 1997) <<http://www.eonline.com/News/Items/0%2C1%2C962%2C00.html>>, Brandi Cohen and Talia Torres, *Ms. Streisand Goes to Washington* (visited June 7, 2000) <<http://www.theshredder.com/archive/BARBRA.html>> and L. Brent Bozell III, *Kiss-Kiss, Bye-Bye: The HWPC Gives Up* (dated April 22, 1997). <<http://www.parentstv.org/publications/lbbcolumns/col19970422.html>>, respectively.

The HWPC has refused to file reports with the Commission, although the Commission has denied its request to terminate. Staff has spoken with both the treasurer of the HWPC and its past Executive Director and obtained a new address in order to resend the reason to believe notification.<sup>2</sup> In light of these circumstances, it appears that the only way for the HWPC to rectify its current situation and be able to terminate is for the committee to file everything currently missing, including the change of address, in one report to the Commission. In order to expedite the resolution of this matter without excessive use of Commission resources, this Office proposes that the letter notifying the HWPC of the additional reason to believe findings also state that if the HWPC amends its 1996 reports to reflect its contribution to the DNC and files its

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<sup>2</sup> Most recent communication with the former Executive Director consists of the committee's request for an extension of time to respond to the Commission's original reason to believe finding. The committee cites as its reason the process required to track down the related documents, which involves going into storage and through the personal files of its board members, since the HWPC "closed" in 1997. This Office has granted the committee's request and its response is due by close of business Friday, September 22, 2000.

missing 1999 and 2000 information within thirty days, the Commission will strongly consider taking no further action and closing the file with respect to the HWPC. Attachment 2.

**IV. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY**


**V. RECOMMENDATIONS**

1. Enter into conciliation with the Democratic National Committee/DNC Services Corporation and Andrew Tobias, as treasurer, prior to a finding of probable cause to believe and approve the attached proposed conciliation agreement and the appropriate letter.
2. Find reason to believe that the Hollywood Women's Political Committee and Judith Dornstein, as treasurer, violated 2 U.S.C. §§ 433(c) and 434.
3. Approve the attached Factual and Legal Analysis to the Hollywood Women's Political Committee and the proposed letter at Attachment 2.

Lawrence M. Noble  
General Counsel

8/30/00  
Date

BY:

  
Lois G. Lerner  
Associate General Counsel

Staff assigned: Tara Meeker

Attachments:

1. Chart listing dates and amounts of checks to the HWPC by Counsel for the DNC
2. Proposed Letter to the HWPC
3. Conciliation Agreement for the DNC
4. Factual and Legal Analysis for the HWPC

21-04-403-0162

Date	Ck#	Vendor	Amount	Reimburse	Running Total	50% of Total	Limits
6/25/96	12314	Abbey Mailing Services	1,600.00		(1,600.00)	(800.00)	14,200.00
8/30/96	12456	Debi Karolewski	2,500.00		(4,100.00)	(2,050.00)	12,950.00
8/30/96	12457	Kelly Hommon	7,500.00		(11,600.00)	(5,800.00)	9,200.00
9/4/96	12486	Screenland Studios	225.00		(11,825.00)	(5,912.50)	9,087.50
9/4/96	12487	In-House Productions	12,192.74		(24,017.74)	(12,008.87)	2,991.13
9/4/96	12488	In-House Productions	2,000.00		(26,017.74)	(13,008.87)	1,991.13
9/5/96	12489	Deborah Nelson	250.00		(26,267.74)	(13,133.87)	1,866.13
9/5/96	12490	Obie Lighting	7,500.00		(33,767.74)	(16,883.87)	(1,883.87)
9/5/96	12491	Obie Lighting	7,500.00		(41,267.74)	(20,633.87)	(5,633.87)
9/5/96	12492	Show Power, Inc.	3,000.00		(44,267.74)	(22,133.87)	(7,133.87)
9/5/96	12493	Andrea's Craft Service	375.00		(44,642.74)	(22,321.37)	(7,321.37)
9/5/96	12494	Kelly Kidneigh	1,775.00		(46,417.74)	(23,208.87)	(8,208.87)
9/5/96	12495	Brown United	13,500.00		(59,917.74)	(29,958.87)	(14,958.87)
9/5/96	12496	Brown United	13,500.00		(73,417.74)	(36,708.87)	(21,708.87)
9/5/96	12497	J & S Express	1,665.00		(75,082.74)	(37,541.37)	(22,541.37)
9/5/96	12498	J & S Express	1,664.00		(76,746.74)	(38,373.37)	(23,373.37)
9/6/96				288,143.00	211,396.26	105,698.13	120,698.13
9/6/96	12501	Kelly Hommon	7,500.00		203,896.26	101,948.13	116,948.13
9/6/96	12502	Debi Karolewski	2,500.00		201,396.26	100,698.13	115,698.13
9/6/96	12550	Alan Middel Corp	1,500.00		199,896.26	99,948.13	114,948.13
9/6/96	12551	In-House Productions	7,707.26		192,189.00	96,094.50	111,094.50
9/9/96	12554	Chris Lamb	480.00		191,709.00	95,854.50	110,854.50
9/9/96	12556	Studio Instrument Rentals	175.00		191,534.00	95,767.00	110,767.00
9/9/96	12557	Studio Instrument Rentals	1,265.00		190,269.00	95,134.50	110,134.50
9/9/96	12558	Studio Instrument Rentals	1,265.00		189,004.00	94,502.00	109,502.00
9/9/96	12559	Var-Lite	3,250.00		185,754.00	92,877.00	107,877.00
9/9/96	12560	Denise Wheeler's Film Permits	246.00		185,508.00	92,754.00	107,754.00
9/9/96	12562	Castex Rentals	436.00		185,072.00	92,536.00	107,536.00
9/9/96	12563	Andy Brewer Studio Rentals	708.75		184,363.25	92,181.63	107,181.63
9/9/96	12564	Andy Brewer Studio Rentals	607.50		183,755.75	91,877.88	106,877.88
9/9/96	12565	Deluxe Catering	2,815.00		180,940.75	90,470.38	105,470.38
9/9/96	12566	Deluxe Catering	2,814.00		178,126.75	89,063.38	104,063.38
9/9/96	12567	Claire Brothers Audio Enterprises	8,975.00		169,151.75	84,575.88	99,575.88
9/9/96	12568	Claire Brothers Audio Enterprises	8,975.00		160,176.75	80,088.38	95,088.38
9/9/96	12569	Schubert Systems Group	1,750.00		158,426.75	79,213.38	94,213.38
9/9/96	12570	Rebecca Longinotti	3,000.00		155,426.75	77,713.38	92,713.38
9/10/96	12571	Pro Piano	784.81		154,641.94	77,320.97	92,320.97
9/10/96	12572	Pro Piano	1,244.88		153,397.06	76,698.53	91,698.53

ATTACHMENT

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9/10/96	12573	george & Goldberg Design	10,422.54	142,974.52	71,487.26	86,487.26
9/10/96	12574	Michael Jacobs Photojournal	375.00	142,599.52	71,299.76	86,299.76
9/12/96	12575	Deluxe Catering	2,478.29	140,121.23	70,060.62	85,060.62
9/12/96	12576	Productions Payroll	9,814.50	130,306.73	65,153.36	80,153.37
9/16/96	12577	Tim Lamb	2,500.00	127,806.73	63,903.36	78,903.37
9/16/96	12578	Karen Gault	2,500.00	125,306.73	62,653.36	77,653.37
9/16/96	12579	GLS Productions	12,000.00	113,306.73	56,653.36	71,653.37
9/17/96	12580	Eagles Touring company	50,937.00	62,369.73	31,184.86	46,184.86
9/18/96	12583	Lisa Presta	130.40	62,239.33	31,119.67	46,119.67
9/18/96	12584	Michael Jacobs Photojournal	375.00	61,864.33	30,932.17	45,932.17
9/18/96	12588	AT&T	140.99	61,723.34	30,861.67	45,861.67
9/18/96	12599	Accurate Express	68.25	61,655.09	30,827.55	45,827.55
9/25/96	12615	Lara Berghold	88.01	61,567.08	30,783.54	45,783.54
9/25/96	12622	Production Payroll	5,221.13	56,345.95	28,172.98	43,172.98
9/25/96	12623	GLS Productions	240.00	56,105.95	28,052.98	43,052.98
9/25/96	12624	MANPOWER	2,492.00	53,613.95	26,806.98	41,806.98
9/25/96	12625	Job Shop, Inc.	8,671.87	44,942.08	22,471.04	37,471.04
9/25/96	12626	Vari-Lite	3,250.00	41,692.08	20,846.04	35,846.04
9/25/96	12627	Computer Prompting Services	2,132.00	39,560.08	19,780.04	34,780.04
9/25/96	12628	Deluxe Catering	1,288.18	38,271.90	19,135.95	34,135.95
9/25/96	12629	Fred Saunders Productions Services	21,291.03	16,980.87	8,490.43	23,490.44
9/25/96	12630	Affordable Services Agency	600.00	16,380.87	8,190.43	23,190.44
9/25/96	12631	Affordable Services Agency	600.00	15,780.87	7,890.43	22,890.44
9/25/96	12632	City of Los Angeles	40.00	15,740.87	7,870.43	22,870.44
9/25/96	12633	City of Los Angeles	40.00	15,700.87	7,850.43	22,850.44
9/25/96	12634	City of Los Angeles	40.00	15,660.87	7,830.43	22,830.44
9/25/96	12635	City of Los Angeles	40.00	15,620.87	7,810.43	22,810.44
9/25/96	12636	City of Los Angeles	40.00	15,580.87	7,790.43	22,790.44
9/25/96	12637	City of Los Angeles	40.00	15,540.87	7,770.43	22,770.44
9/25/96	12638	Green	250.00	15,290.87	7,645.43	22,645.44
9/25/96	12639	Drum Paradise	1,349.00	13,941.87	6,970.93	21,970.94
9/25/96	12640	Henry De La Rosa	850.00	13,091.87	6,545.93	21,545.94
9/25/96	12641	Plantation Coffee Service	177.90	12,913.97	6,456.98	21,456.99
9/25/96	12642	Andy Brauer Studio Rentals	400.00	12,513.97	6,256.98	21,256.99
9/25/96	12643	J & S Motor Express	141.00	12,372.97	6,186.48	21,186.49
9/25/96	12644	Amore Studio Cartage	455.00	11,917.97	5,958.98	20,958.99
9/25/96	12645	Amore Studio Cartage	600.00	11,317.97	5,658.98	20,658.99
10/2/96	12663	Sabron, Inc	23,564.73	(12,246.76)	(6,123.38)	8,876.62
10/2/96	12664	J & R Film	315.17	(12,561.93)	(6,280.97)	8,719.03

10/2/96	12665 Synthesizer Systems Technol	330.00	(12,891.93)	(6,445.97)	8,554.03
10/2/96	12666 Show Power, Inc.	202.65	(13,094.58)	(6,547.29)	8,452.71
10/2/96	12667 Regal Rents	377.57	(13,472.15)	(6,736.08)	8,263.92
10/2/96	12668 Lorenz Germaine	300.00	(13,772.15)	(6,886.08)	8,113.92
10/2/96	12669 Janet Kagan	250.00	(14,022.15)	(7,011.08)	7,988.92
10/2/96	12670 Vogler Audio Media	600.00	(14,622.15)	(7,311.08)	7,688.92
10/2/96	12671 Patty Bolter	250.00	(14,872.15)	(7,436.08)	7,563.92
10/2/96	12672 Pamela Grossbart	250.00	(15,122.15)	(7,561.08)	7,438.92
10/2/96	12673 Design FX Audio	95.00	(15,217.15)	(7,608.58)	7,391.42
10/2/96	12674 Nice Guys Limo	335.81	(15,552.96)	(7,776.46)	7,223.52
10/3/96			2,150.00	1,075.00	16,075.00
10/15/96	12700 American Express	1,162.00	988.00	494.00	15,494.00
10/25/96			2,253.00	1,126.50	16,126.50
11/6/96	12795 Designs by David	133.25	2,119.75	1,059.87	16,059.88
11/6/96	12798 LFC Insurance	75.00	2,044.75	1,022.37	16,022.38
11/6/96	12799 Federal Express	44.50	2,000.25	1,000.12	16,000.13
11/18/96			4,019.00	2,009.50	17,009.50
11/25/96	12826 Peter Monroe Productions, Inc.	1,147.42	2,871.58	1,435.79	16,435.79
1/8/97	?	5,703.72	(2,832.14)	(1,416.07)	13,583.93
		311,961.85			
			309,129.71		

ATTACHMENT

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5910-204-40-12



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

**MEMORANDUM**

**TO:** Office of the Commission Secretary

**FROM:** Office of General Counsel *ACS*

**DATE:** August 30, 2000

**SUBJECT:** MUR 4936/5038 -General Counsel's Report #2

The attached is submitted as an Agenda document for the Commission Meeting of \_\_\_\_\_

Open Session \_\_\_\_\_

Closed Session \_\_\_\_\_

**CIRCULATIONS**

**SENSITIVE** ☒  
**NON-SENSITIVE** ☐

72 Hour TALLY VOTE ☒  
24 Hour TALLY VOTE ☐  
24 Hour NO OBJECTION ☐  
INFORMATION ☐

**DISTRIBUTION**

**COMPLIANCE** ☒  
Open/Closed Letters ☐  
MUR ☐  
DSP ☐  
**STATUS SHEETS** ☐  
Enforcement ☐  
Litigation ☐  
PFESP ☐  
**RATING SHEETS** ☐  
**AUDIT MATTERS** ☐  
**LITIGATION** ☐  
**ADVISORY OPINIONS** ☐  
**REGULATIONS** ☐  
**OTHER** ☐


21-04-403-0162



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

MEMORANDUM

TO: Lawrence M. Noble  
General Counsel

FROM: Mary W. Dove/Lisa R. Davis  
Acting Commission Secretary 

DATE: September 1, 2000

SUBJECT: MURs 4936 & 5038 - General Counsel's Report #2  
dated August 30, 2000.

The above-captioned document was circulated to the Commission  
on Thursday, August 31, 2000.

Objection(s) have been received from the Commissioner(s) as  
indicated by the name(s) checked below:

Commissioner Mason	<u>XXX</u>
Commissioner McDonald	—
Commissioner Sandstrom	—
Commissioner Smith	—
Commissioner Thomas	—
Commissioner Wold	—

This matter will be placed on the meeting agenda for

Tuesday September 12, 2000.

Please notify us who will represent your Division before the Commission on this matter.

21 "04" 403 0345